

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

RICHARD S. GARCIA, #0618316,

Plaintiff,

v.

SARAH PIERSON,

Defendant.

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Case No. 6:19-cv-549-JDK-KNM

**ORDER ADOPTING REPORT AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE**

Plaintiff Richard Garcia, an inmate confined at the Texas Department of Criminal Justice's Hodge Unit, is proceeding pro se and in forma pauperis in this civil rights lawsuit. The complaint was referred to United States Magistrate Judge, the Honorable K. Nicole Mitchell, for findings of fact, conclusions of law, and recommendations for the disposition of the case.

On August 11, 2020, Judge Mitchell issued a Report (Docket No. 47) recommending that Defendant Pierson's motion to dismiss filed under Rule 12(b)(6), (Docket No. 16), be granted and that Plaintiff's amended civil rights complaint be dismissed, with prejudice, for failure to state a claim upon which relief can be granted. A copy of this Report was sent to Plaintiff at his address, with an acknowledgment card. The docket reflects that Plaintiff received a copy of the Report on August 14, 2020 (Docket No. 49). To date, Plaintiff has not filed objections.


This Court reviews the findings and conclusions of the Magistrate Judge de

novo only if a party objects within fourteen days of service of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass’n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days). Here, because Plaintiff did not file objections in the prescribed period, the Court reviews the Magistrate Judge’s findings for clear error or abuse of discretion and reviews his legal conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), *cert. denied*, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge’s Report are filed, the standard of review is “clearly erroneous, abuse of discretion and contrary to law”).

The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined that the Report of the Magistrate Judge is correct.

Accordingly, it is **ORDERED** that the Report of the United States Magistrate Judge (Docket No. 47) is **ADOPTED** as the opinion of the Court. Defendants’ motion to dismiss (Docket No. 16), filed pursuant to Rule 12(b)(6), is **GRANTED** and Plaintiff’s claims in this proceeding are **DISMISSED**, with prejudice, for failure to state a claim upon which relief can be granted. Finally, it is **ORDERED** that any and all motions which may be pending in this civil action are hereby **DENIED** as **MOOT**.

So **ORDERED** and **SIGNED** this 11th day of **September, 2020**.

  
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JEREMY D. KERNODLE  
UNITED STATES DISTRICT JUDGE